IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SEVENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 13064 of 2004

Between:

Toddy Tappers Cooperative Society Pulekonda, Pulekonda,

Hyderabad District rep., by its President Mr.K.Praveen Kumar

..... PETITIONER

AND

1 The Proh., & Excise Superintendent, Hyderabad District at Hyderabad.
2 The Proh., & Excise Inspector, SHO, Excise Station, Dhoolpet, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of mandamus, or any other appropriate writ, order or direction, declaring the action of the respondents in demanding the rentals from 08/12/2003 to 15/12/2003 amounting to Rs.1,21,731/- vide Cr.No.B1/297/2004/P&ESH, dt.17/07/2004 after the cancellation of licences of Pulekona Toddy Shop, is illegal, arbitrary, unjust, without jurisdiction and ultra vires and set aside the same and further grant stay of collection of rentals of Rs.1,21,731/- for the period 08/12/2003 to 15/12/2003 i.e., after the cancellation of licences of Pulekonda Toddy Shop.

Counsel for the Petitioner:MR.T.AMARNATH GOUD

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

The Court at the admission stage made the following :

ORDER:

The Toddy Tappers Cooperative Society (TCS), Pulekona, is aggrieved by show cause notice dt.17.7.2004 whereby and whereunder the TCS was directed to remit certain amounts mentioned therein. The petitioner is aggrieved by the demand of a sum of Rs.1,21,731/- (Rupees one lakh twenty one thousand seven hundred and thirty one only) being alleged rentals for the period from 8.12.2003 to 15.12.2003. It is the case of the petitioner Society that with effect from 8.12.2003, the petitioner did not carry on business as the licence was cancelled. Therefore, there cannot be any demand for rentals for the period from 8.12.2003 to 15.12.2003.

Learned counsel for the petitioner does not dispute that under Section 63(1) of the A.P.Excise Act, 1968 petitioner has effective remedy of appeal to the Deputy Commissioner. This remedy is not availed.

Therefore, this Court is not inclined to accept the Writ Petition. Liberty is reserved to petitioner to avail remedy of appeal before the Deputy Commissioner of Prohibition and Excise having jurisdiction over the matter. As and when such appeal is filed, the Deputy Commissioner concerned shall pass appropriate orders within four weeks from the date of presentation of the appeal.

With the above observations and directions, the Writ Petition is disposed of. No costs.

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(V.V.S.RAO, J)

27.7.2004

bnr

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Proh., & Excise Superintendent, Hyderabad District at Hyderabad.
2 The Proh., & Excise Inspector, SHO, Excise Station, Dhoolpet,

Hyderabad.

3. 2 CCs to GP for Prohibition & Excise, High Court Bldgs.,

Hyderabad (OUT)

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